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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,204	08/05/2003	Kim Marie Clark	317270.4/A02201US	6832

7590

04/13/2006

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EXAMINER

AHMAD, NASSER

ART UNIT

PAPER NUMBER

1772

DATE MAILED: 04/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/634,204

Applicant(s)

CLARK, KIM MARIE

Examiner

Nasser Ahmad

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Finality Withdrawn

1. Upon further consideration and a review of the claimed subject matter, and in view of the newly found prior art, the finality of the last Office Action is being withdrawn.

Prosecution is reopened and a complete action on the merits follows:

Rejections Withdrawn

2. Claims 1 and 5-7 rejected under 35 U.S.C. 102(b) as being anticipated by Ratzlaff (5099889) made in the Office Action of February 3, 2005 has been withdrawn in view of the amendment filed on March 27, 2006.

3. Claims 1 and 5-7 rejected under 35 U.S.C. 103(a) as being unpatentable over Padilla (5869159) in view of Petock (3884495) made in the Office Action of 2/3/2005 has been withdrawn in view of the amendment.

4. Claims 1-3 and 5-9 rejected under 35 U.S.C. 103(a) as being unpatentable over Ratzlaff in view of Simmons (5964252) made in the Office Action of 2/3/2005 has been withdrawn in view of the amendment.

5. Claims 4 and 10 rejected under 35 U.S.C. 103(a) as being unpatentable over Ratzlaff in view of Tomberlin (4939778) made in the Office Action of 2/3/2005 has been withdrawn in view of the amendment.

6. Claims 1-10 are rejected under 35 U.S.C. 112, first paragraph, made in the last Office Action has been withdrawn in view of the amendment.

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7. Claims 5-6 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Weightman (4795190) made in the last Office Action has been withdrawn in view of the amendment.

8. Claims 1-3, 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weightman made in the last Office Action has been withdrawn in view of the amendment.

Response to Arguments

9. Applicant's arguments with respect to claims 1-3 and 5-9 are have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1-3 and 5-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Blackburn (5190533).

Blackburn relates a cover device comprising a lengthwise strip of fabric (28) (col. 6, lines 32-34) having a rectangular structure as is well known in the diaper are and as shown in figure-1, a first and second elastic strips (35, 35') are hemmed along the first and second lengthwise edge of the fabric with a gathered configuration (col. 6, lines 46-49), a strip of pressure sensitive adhesive tab (39) is adhered to said strip of fabric

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substantially along said first lengthwise edge and a liner (39b) releasably covers said adhesive surface (39a) (col. 6, lines 49-53).

The preamble recitation "A cord cover" has not been given patentable weight because it has been held that a preamble is denied the effect of a limitation where the claim is drawn to a structure and the portion of the claim following the preamble is a self-contained description of the structure not depending for completeness upon the introductory phrase. *Kropa v. Robie*, 88 USPQ 478 (CCPA 1951).

The intended use phrases such as "for use", "selectively removable", "to be selectively adhered", etc. have not been given any patentable weight because said phrases are not found to be of positive limitations.

The adhesive tab is reusable a limited number of times because it adheres to a reusable surface. Further, it is well known in the diaper art to use reusable adhesive tabs as evidenced by Rogers (USP 5569229, in col. 3, lines 5-10).

As shown in figure-1, the adhesive tape is discontinuous.

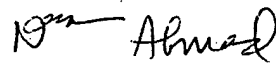
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nasser Ahmad whose telephone number is 571-272-1487. The examiner can normally be reached on 7:30 AM to 5:00 PM, and on alternate Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Nasser Ahmad
Primary Examiner
Art Unit 1772
4/11/06

N. Ahmad.
April 11, 2006.